

PSJ14 Janssen Opp Exh 27 – Lin Dep (dep not cited in appendices)

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 - - -
5

6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION : MDL NO. 2804
9 : :
10 APPLIES TO ALL CASES : NO.
11 : : 1:17-MD-2804
12 : :
13 - HIGHLY CONFIDENTIAL -
14

15 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW
16 - - -
17 December 20, 2018
18 - - -
19 Videotaped deposition of
20 DAVID LIN, taken pursuant to notice, was
21 held at the law offices of Drinker Biddle
22 & Reath, 105 College Road East,
23 Princeton, New Jersey, beginning at 9:18
24 a.m., on the above date, before Michelle
 L. Gray, a Registered Professional
 Reporter, Certified Shorthand Reporter,
 Certified Realtime Reporter, and Notary
 Public.

25 - - -
26 GOLKOW LITIGATION SERVICES
27 877.370.3377 ph | 917.591.5672 fax
28 deps@golkow.com
29

1 A. Yeah, I'm reading what
2 you're showing me, yes.

3 Q. Okay. And you're seeking to
4 gain insight into current attitudes
5 towards and treatments of, nociceptive,
6 neuropathic and mixed pain, right?

7 A. That's right.

8 Q. Did Janssen routinely engage
9 third parties to study and obtain
10 feedback from healthcare practitioners in
11 terms of the most compelling ways to
12 communicate efficacy, safety,
13 tolerability and mechanism of action
14 messages?

15 A. As a general concept,
16 getting the voice of the customer
17 typically entailed hiring a third-party
18 market research firm to engage outside
19 customers to understand their points of
20 view on a particular topic.

21 Q. And did Janssen routinely
22 engage third parties to go out and
23 perform market research to identify the
24 most clear and compelling ways to

1 A. I can acknowledge that it
2 was part of the selling message. It was
3 a key communication point at one period
4 in time.

5 Q. And what period of time in
6 time was that?

7 A. My recollection is that was
8 at the early launch days of Nucynta and
9 shortly thereafter. One of my first
10 actions was that that was deemed to be
11 ineffective in terms of helping customers
12 really solve the problems they needed to
13 solve, which is does it work and can my
14 patients afford it.

15 Q. So when -- by the time that
16 Nucynta -- let's pin this down.

17 By the time that Nucynta ER
18 launched and you were the head of the
19 launch team, as well as the head of sales
20 and marketing and the head of the pain
21 force team, is it your testimony that
22 when ER launched, your brand team would
23 have stopped utilizing the dual mechanism
24 of action as a selling feature of Nucynta

1 ER?

2 A. Without the exact
3 promotional materials that were used at
4 the launch of Nucynta ER, I can't tell
5 you exactly how it was worded.

6 My recollection is, even if
7 it was mentioned as part of a broader set
8 of messages, it was only an
9 acknowledgment to the fact that it was
10 mentioned before, but it was not the key
11 selling feature of Nucynta ER.

12 Q. What, what became the key
13 selling feature of Nucynta ER?

14 A. My recollection, this is
15 strategically, is that the key messages
16 for differentiating Nucynta ER in the
17 eyes of customers, or in the minds of
18 customers, was really around its
19 efficacy, its tolerability.

20 So does it work was the
21 question that we tried to answer, because
22 that's the most common question asked by
23 physicians in my recollection of market
24 research.

1 Q. And the first line item is,
2 "Live speaker programs (including
3 regional hot spots) with a \$4.5 million
4 budget," it looks like, but then I
5 won't -- I'll go directly to the actual
6 to see what that is.

7 "Invoiced 4 million." Do
8 you see that?

9 A. Yes.

10 Q. Okay. So this would tend to
11 reflect that \$4 million had been
12 invoiced, and according to your earlier
13 testimony, should be paid for live
14 speaker programs that had thus far been
15 billed as of this point in time in 2012,
16 right?

17 A. That would be my conclusion.

18 Q. Okay. And the vendor for
19 these live speaker programs is a company
20 by the name of MedForce. Do you see
21 that, it's right in the line D?

22 A. Yes, I see that.

23 Q. Who is MedForce, what did
24 they do? Did you work with them

1 personally?

2 A. I did not work with MedForce
3 personally. MedForce is a third-party
4 agency that manages speaker programs for,
5 fair to say a good number, if not a large
6 number, of pharmaceutical manufacturers.

7 They essentially handle
8 logistics for setting up a speaker
9 program.

10 Q. What does that mean, to
11 handle logistics? Would -- would the
12 speakers be paid through MedForce?

13 A. The part about logistics
14 that I can -- that I'm familiar with is
15 if, for example, I was a sales rep, and I
16 was going to hold a speaker program, I
17 would choose the speaker from the
18 available list of speakers. I would call
19 up MedForce and say, Dr. Speaker and I
20 have agreed to do a program on
21 February 25th here in Princeton,
22 New Jersey. MedForce would help secure a
23 location or a venue that was appropriate
24 for a speaker program that was within

¹ healthcare compliance guidelines and they
² would set it up.

15 Q. And just under that live
16 speaker program, budget number for
17 MedForce, there is full service for
18 meeting direct?

19 A. Yes.

20 Q. Then there's Nucynta 2011
21 speakers bureau execution credit. Do you
22 know what an execution credit is?

23 A. Well, typically if -- if the
24 speaker bureau, you know, the -- the

1 vendor might invoice -- they may invoice
2 too much, because it was an anticipated
3 number of programs to execute. And if
4 you don't use it -- if they don't
5 actually hit it, then there's a credit.

6 Q. Okay. And then it gets to
7 KOL stakeholder database and decile.ten
8 is the vendor. What is the KOL
9 stakeholder database?

10 A. I'm not -- it -- it doesn't
11 ring a bell right now. But part of
12 the -- the desire of a brand is to make
13 sure that you -- that the brand is able
14 to categorize all the different folks
15 that are influential in a particular
16 area. So a typical KOL database may have
17 a person listed as very good for the
18 neurology community, or very good for
19 let's say surgeons. Just to give a
20 little bit of structure.

21 Q. And in this instance, at
22 least for Line 9 in the 2012 brand
23 investment summary, decile.ten is listed
24 as the vendor who managed this KOL

1 line item in the entire brand investment
2 strategy appears to be the live speaker
3 programs at \$4 million. And the next two
4 items that are above \$2 million are the
5 McKesson rebate program or coupon program
6 and this comparison with oxy.

7 Fair to say that, number
8 one, funding your speaker program was
9 pretty important to Janssen's overall
10 brand investment strategy to promote
11 Nucynta?

12 A. Peer-to-peer education was a
13 critical part of the marketing mix for
14 driving awareness and adoption for
15 Nucynta and Nucynta ER.

16 Q. Fair to say that funding the
17 rebate program in order to get better
18 access for patients to be prescribed or
19 to want to pick up and pay for at the
20 co-pay level Nucynta was important to
21 Janssen's brand strategy to promote
22 Nucynta?

23 MR. GALIN: Objection to
24 form.

1 THE WITNESS: I think
2 supporting -- it was important to
3 the brand as a newcomer to the
4 category to support good access
5 for patients and provide customers
6 with the ability to help their --
7 their patients get started on a
8 brand that didn't have the best
9 coverage at the time of launch.

10 BY MR. JANUSH:

11 Q. Is it also fair to say that
12 it was really important for Janssen to
13 compete against oxy and that's why, in
14 2012, it permitted the brand to be
15 invoiced \$2,882,433 to advance those
16 endeavors?

17 MR. GALIN: Objection to
18 form.

1 and the pain product, to a standalone of
2 a sales force that just focused on pain.

3 Q. Going back -- thank you for
4 that clarification, but going back to my
5 question.

6 That other sales force,
7 notwithstanding how many other products
8 they covered, numbered into the hundreds
9 of sales folks that were detailing
10 Nucynta; is that right?

11 A. That's generally accurate,
12 yes.

13 Q. Do you remember how many
14 hundreds?

15 A. I don't remember the exact
16 number. My -- my recollection is it's
17 somewhere north of 500. Probably shy of
18 somewhere under a thousand.

19 Q. Okay. Fair to say that
20 77 salespeople, no matter how skilled
21 they may be, can't cover the entire
22 country?

23 A. These 77 were deployed
24 nationally in all major metropolitan

1 areas where there was a concentration of
2 relevant prescribers.

3 Q. I appreciate that. That's
4 another way of saying that these 77
5 weren't allocated to cover the entire
6 country, right?

7 A. For purposes of that
8 product, they were covering, in my
9 estimation, most of the country.

10 Q. Because they were covering
11 areas where prescribers were prescribing
12 Nucynta?

13 A. They were covering areas
14 where prescribers were covering -- they
15 were writing Nucynta and Nucynta ER. And
16 because there was a population of
17 treaters of pain.

18 Q. We're going to get back to
19 this very topic in just a short bit of
20 time. Okay?

21 A. All right.

22 Q. Before I move on to the next
23 exhibit, I want to ask some questions
24 about this Quintiles, this transition to

1 there's a vetting process for how the
2 actual customer targets are derived. The
3 actual number of physicians that wrote
4 long-acting opioids, as I'm speaking to
5 Nucynta ER, was far greater than the
6 number that we could actually reach with
7 the resources we had.

8 But in general, if you asked
9 me for characterizing the targets that we
10 would seek to engage, writers of
11 long-acting opioids, specifically branded
12 ones.

13 Q. Do you recall being involved
14 in communications about setting up a
15 meeting with a high prescribing physician
16 who was very specifically writing
17 prescriptions of your competitor's
18 product and not writing Nucynta ER
19 prescriptions?

20 MR. GALIN: Objection to
21 form.

22 THE WITNESS: During my time
23 as a brand leader, I met with
24 customers when I was out with the

1 sales representatives. I met --
2 when I would go out on a day with
3 a rep. So I would meet with
4 customers as -- as a tagalong to
5 the normal course of their day.

6 Whether or not they fit the
7 exact criteria that you're
8 describing is -- I can't speak yes
9 or no to that with any accuracy.

10 BY MR. JANUSH:

11 Q. So during your tenure as the
12 national sales and marketing director,
13 you -- you actually went and did
14 ride-alongs with sales reps?

15 A. Occasionally. I -- I made
16 it a point to go out once or twice. Most
17 folks in those roles do, to ensure that
18 we didn't lose touch with reality.

19 (Document marked for
20 identification as Exhibit
21 Janssen-Lin-12.)

22 BY MR. JANUSH:

23 Q. I'm going to mark as Exhibit
24 Number 12 an e-mail chain that's Bates

1 Q. Okay. So there's David Lin,
2 Patricia Yap, and Kanitha Burns with a
3 number of other employees on that
4 third -- on that third tier. Fair?

5 A. Fair.

6 Q. Okay. "Lisa, I should be
7 able to do it, especially if it's in and
8 out same day. Let's talk tomorrow.
9 Kanitha."

10 Now, I deposed Kanitha Burns
11 not that long ago. I didn't get any
12 testimony from her that she assisted in
13 sales and went out and met with high
14 prescribers of long-acting opioids.

15 How common is that practice
16 to send out a marketing executive from
17 Janssen's headquarters in New Jersey out
18 to Cleveland, Ohio to meet with a high
19 prescriber?

20 MR. GALIN: Objection to
21 form.

22 THE WITNESS: Well, first
23 let's talk about the role. So I
24 would say Kanitha and others like

1 Kanitha are definitely people --
2 those are -- those are roles that
3 are primarily based on marketing.
4 But marketing and sales have a
5 very close collaboration.

6 And I would characterize it
7 as, it is true that occasionally
8 someone from home office may visit
9 a customer for the purpose of
10 learning about the customer's
11 practice, their -- the area,
12 hearing about things like managed
13 care.

14 BY MR. JANUSH:

15 Q. He hadn't written a
16 prescription in 13 weeks. He wasn't
17 really a customer right then, right?

18 A. No.

19 Q. In fact, it's because he was
20 writing a competitor's -- script for --
21 prescriptions for Opana ER that he was
22 specifically targeted for a visit; isn't
23 that right?

24 A. Based on the

1 carved out for the pain specialty Nucynta
2 pain force group; is that right?

3 A. That's right.

4 Q. Okay. So earlier I talked
5 about the difference between sales reps
6 detailing across the country versus in
7 targeted locations, right?

8 A. Yes.

9 Q. This map, to use a Janssen
10 line from an earlier PowerPoint, a
11 picture is worth a thousand words, right?

12 A. Yes.

13 Q. This map identifies the --
14 the areas of greater intensity of focus
15 where Janssen was dedicating its Nucynta
16 pain force sales representatives; is that
17 right?

18 A. That's correct. This is
19 the -- this is meant to depict the
20 deployment of the sales team.

21 Q. Okay. If the colors of each
22 region are not observed in any of the
23 states that are listed, that are set
24 forth as blank or white, does that mean